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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KIARA ROBLES,

Plaintiff,

v.

IN THE NAME OF HUMANITY, WE
REFUSE TO ACCEPT A FASCIST
AMERICA (a.k.a. ANTIFA), CITY OF
BERKELEY, ET AL.,

Defendants.

No. 4:17-cv-04864 CW

**DEFENDANT CITY OF BERKELEY'S
REPLY IN SUPPORT OF MOTION TO
REVOKE PRO HAC VICE ADMISSION
OF LARRY KLAYMAN**

Date: November 14, 2017
Time: 2:30 p.m.
Crtrm: TBD

INTRODUCTION

In his Opposition to the City of Berkeley's Motion to Revoke Pro Hac Vice Admission, Mr. Klayman concedes numerous documented instances in which federal courts have sanctioned and criticized him for his unprofessional behavior. He also concedes that he has been banned for life from practicing in two federal district courts, and has been the subject of disciplinary proceedings and public reprimands based on multiple violations of rules of professional conduct. Mr. Klayman appears to argue that his long history of unprofessional and inappropriate behavior is warranted and excused by his "zealous" advocacy and "litigation style" in "highly charged politically motivated cases." Opp. at 1:14; 1:21-24. Mr. Klayman's position makes no sense, as the rules and guidelines for professional conduct contain no

1 exception for political cases or alleged “zealous” advocacy.

2 Mr. Klayman makes an underhanded accusation against the objectivity of the Court,
3 claiming illogically that the Court will be biased in favor the City of Berkeley’s position
4 because she attended and taught at UC Berkeley. Opp. at 3-7. He promises to “fully” obey “all
5 court orders” and to treat the court and “all parties with dignity and respect,” however, he has
6 already flouted the rules in this case by filing an opposition to the City’s motion to dismiss five
7 days late, leaving the City only one business day in which to file its reply brief.

8 Mr. Klayman argues that his client has a Sixth Amendment right to her counsel of
9 choice, ignoring the fact that this is a civil case, not a criminal case. The Court should grant the
10 City’s motion and revoke Mr. Klayman’s *pro hac vice* admission.

11 **ARGUMENT**

12 **I. Plaintiff has no Sixth Amendment right to counsel of her choice**

13 Mr. Klayman argues that plaintiff Kiara Robles has a guaranteed Sixth Amendment right to
14 counsel of her choice. Opp. at 2:21-23. However, the authorities Mr. Klayman relies upon do
15 not support his claim that plaintiff has a right to the counsel of her choice in this civil case. For
16 instance, *U.S. v. Ries*, a case regarding the right to counsel in the criminal context, states “the
17 Sixth Amendment right to chosen counsel is not absolute; it can be abrogated to serve a
18 ‘compelling purpose.’ Ensuring the ethical and orderly administration of justice is one such
19 purpose.” 100 F.3d 1469, 1471 (9th Cir. 1996). None of the cases cited by Mr. Klayman
20 extend a right to counsel of one’s choice to civil cases. Instead, the cases discuss the manner in
21 which judicial concerns, such as conflicts of interest, will abrogate a civil litigant’s right to
22 choice of counsel. See *City and County of San Francisco v. Cobra Solutions, Inc.*, 38 Cal.4th
23 839, 846 (Cal. 2006) (“Ultimately, disqualification motions involve a conflict between the
24 clients’ right to counsel of their choice and the need to maintain ethical standards of
25 professional responsibility.”); see also *Khani v. Ford Motor Co.*, 215 Cal.App.4th 916, 920
26 (Cal.App.2d Dist. 2013) (noting “a disqualification motion juxtaposes a client’s right to
27
28

1 represented by his or her counsel of choice with the attorney's duty to maintain the confidences
2 of his or her former client.") Therefore, Mr. Klayman provides no authority supporting his view
3 that plaintiff's alleged "right to counsel" supersedes this Court's authority to revoke his *pro hac*
4 *vice* admission.

5 **II. Mr. Klayman concedes there are numerous incidents of improper conduct**
6 **warranting revocation of *pro hac vice* admission**

7 Mr. Klayman does not dispute the eleven documented instances of improper conduct
8 cited by the City in its motion. See Def's MPA at 6-7. Nor can Mr. Klayman dispute the
9 specific criticisms by two separate Texas district courts, where "[t]he record reflect[ed] Mr.
10 Klayman's predilection for filing frivolous, nonsensical, and vituperative documents." See
11 *Klayman v. Obama*, 3:16-CV-02010-L (N.D. Texas); *Zamarripa v. Farrakhan*, 3:16-cv-03109-
12 N (N.D. Texas). Finally, Mr. Klayman does not dispute his filing, dismissing, refiling, and
13 dismissing again of lawsuits against, among others, President Obama, which he dismissed based
14 on his view that the federal judge would be biased against him. *Klayman v. ACLU*, No. 2:17-
15 cv-01703-JAK-JEM, ECF 1, ¶¶ 37-38; *Klayman v. Obama*, No. 2:17-cv-00836-JAK-JEM, ECF
16 1; *Klayman v. ACLU*, 2:17-cv-01703-JAK-JEM, ECF 1.

17 Thus, the record warrants revocation of Mr. Klayman's *pro hac vice* admission because
18 it shows his conduct will likely interfere with "the orderly administration of justice" and he will
19 likely "not abide by the court's rules and practices." *In re Bundy*, 840 F.3d 1034, 1042 (9th.
20 Cir. 2016). Although he claims he will "fully" obey all court rules and respect the parties, Mr.
21 Klayman has already flouted the rules by filing an opposition brief five days late, leaving the
22 City only one business day to file its reply brief. See ECF # 22 (Plaintiff's Opposition to Motion
23 to Dismiss Complaint).

24 **III. *In re Bundy* supports the City's request to revoke Mr. Klayman's *pro hac vice***
25 **status**

26 Mr. Klayman relies on the dissenting opinion in *In re Bundy* to argue that the Court
27 should not revoke his *pro hac vice* status. Mr. Klayman argues his application was "improperly,
28 arbitrarily, and capriciously denied" while ignoring the *Bundy* Court's findings. See Pltf's Opp.

1 at 3-4; see *Bundy*, 840 F.3d at 1045 (holding district court did not abuse its discretion by
2 considering Mr. Klayman’s “‘pending disciplinary proceedings,’ a failure to state in his *pro hac*
3 *vice* application that the attorney was subject to pending disciplinary proceedings and . . . his
4 failure to directly address those proceedings when so requested.”)

5 While Mr. Klayman may disagree with the *In Re Bundy* Court’s holding, he provides no
6 legitimate reason why this Court should not consider it in deciding this motion.

7 **IV. Mr. Klayman misrepresents the District of Columbia Bar proceedings**
8 **against him**

9 Mr. Klayman misrepresents the ethics proceeding against him before the District
10 of Columbia Bar. He claims “this matter is still pending and Mr. Klayman has never
11 actually been found to have acted unethically in this matter.”¹ *Bundy*, 840 F.3d at 1049;
12 Pltf’s Opp. at 4 (emphasis in original). However, Mr. Klayman omits the fact that a three
13 member hearing committee for the D.C. Bar found “by clear and convincing evidence”
14 that Mr. Klayman violated Florida Rule of Professional Conduct 4-1.9(a), and D.C. Rules
15 of Professional Conduct 1.9 and 8.4(d). Bourgault Dec. Exh. A at p. 43. Therefore, the
16 D.C. Bar proceedings are relevant to this motion to revoke Mr. Klayman’s *pro hac vice*
admission.

17 **V. Mr. Klayman’s Florida Bar Public Reprimand shows Mr. Klayman’s**
18 **predilection for interference with the fair administration of justice**

19 Mr. Klayman erroneously argues this court should not consider his Florida Bar
20 Public Reprimand because it “was entirely unrelated to his conduct in any courtroom”
21 and “he settled the matter to just move past the dispute.” Pltf’s Opp. at 5. However, this
22 court has discretion to consider any evidence towards “promoting the orderly
23 administration of justice” including whether an out-of-state attorney “will not ‘abide by
24 the court’s rules and practices” when ruling on *pro hac vice* admission. *In re Bundy*, 840

25 _____
26 ¹ Mr. Klayman also references an “Affidavit of Negotiated Discipline” that Defendant did not
27 cite in its motion. However, Mr. Klayman’s claim that he withdrew the document was found to
28 be a clear misrepresentation in *In re Bundy*, where the district court found Mr. Klayman
“provided false information to this court by stating that he withdrew his affidavit when, in fact,
the Hearing Committee rejected it.” *Bundy*, 840 F.3d at 1044 (emphasis added).

F.3d at 1042. In his signed Consent Judgment, Mr. Klayman admits numerous violations of the Florida Rules of Professional Conduct, including a failure to comply with a mediation agreement. Bourgault Dec. Exh. B at p. 5. Additionally, Mr. Klayman’s allegation about signing the judgment “just to move past the dispute” was found by the D.C. Bar Hearing Committee to be “simply not true.” Pltf’s Opp at 5; Bourgault Dec. Exh. A at p. 37. Such conduct is especially relevant to the Court’s inquiry here, and should not be ignored.

VI. Mr. Klayman concedes that two federal district courts have banned him for life

Disregarding the Ninth Circuit’s express findings to the contrary, Mr. Klayman rehashes previously refuted arguments supported solely by the dissenting opinion in *In re Bundy*. See *Bundy*, 840 F.3d at 1049 (noting the majority “might be inclined to agree with the dissent that conduct twenty-years ago in the past is outdated” if courts had not “sanctioned, chastised, and rebuked Klayman repeatedly over the past twenty years”). The Court should grant the City’s motion and revoke Mr. Klayman’s *pro hac vice* status.

CONCLUSION

For all of the foregoing reasons, the Court should grant the City’s motion to revoke Mr. Klayman’s *pro hac vice* status.

Dated: October 23, 2017

Respectfully submitted:

LYNNE S. BOURGAULT, Deputy City Attorney

By: /s/
LYNNE S. BOURGAULT
Attorneys for Defendant City of Berkeley